

Memorandum



Date: June 7, 2005

Agenda Item No. 8(O)(1)(C)

To: Honorable Chairman Joe A. Martinez and Members,
Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Bleachers at the Crandon Tennis Center

This item was presented for Board of County Commissioners (Board) approval at the May 3, 2005 Board meeting as part of the Formal Bid Waiver Package (Item 8O1B: Section 3.1). The award was bifurcated and deferred at the Board's request and is being placed on the Board Agenda as stand alone item. The item has been modified to (i) waive the bid protest procedures (ii) include the funding source and (iii) to clarify the chronology of the procurement.

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) waive the bid protest procedures contained in Section 2-8.3 and 2-8.4 of the Code of Miami-Dade County and the competitive bidding process pursuant to Section 2-8.1 of the County Code and Section 4.03(D) of the Home Rule Charter in the best interests of the County and authorize the purchase a bleacher-style seating system that can be assembled and disassembled for the Crandon Park Tennis Center. This system will provide adequate seating for the yearly NASDAQ – 100 Open Tennis Tournament held at Crandon Park Tennis Center.

On May 9, 2005, Alto Seating Systems, LLC filed a bid protest in connection with this recommendation. To have the bleachers installed in time for the next Tournament in 2006, the bid protest must run its course in time to bring this item through the Committee process and back to the Board in time for the summer recess on July 7, 2005. This is an aggressive timeline that cannot be guaranteed. As a result, I am presenting my original recommendation to you and requesting a waiver of bid protest procedures to allow for this item to be considered by the Board at this time. This will also provide an opportunity for the vendor(s) to address any concerns on the record before the Board.

BACKGROUND

BID NUMBER: CBW1677-PR

Title: Bleacher at the Crandon Tennis Center

Description: To purchase a bleacher-style seating system that can be assembled and disassembled to provide adequate seating for the yearly NASDAQ – 100 Open Tennis Tournament.

Department(s) Park & Recreation

Contract Amount: \$ 1,488,700.00

Funding Source Sunshine State Grant

Term of Contract: Upon delivery

Option(s)-to-Renew: Not applicable

Local Preference: Not applicable

UAP: The contract includes the 2% User Access Fee

Living Wage: Not applicable, no services are contemplated.

Vendor(s): South Florida Construction Associates, Inc. (S.F.C.S)

Estimated Contract Usage: \$1,488,700.00

Justification: Authorization is requested to waive the competitive bidding process to purchase a bleacher-style seating system that can be assembled and disassembled for the Crandon Park Tennis Center. This system will provide adequate seating for the yearly NASDAQ – 100 Open Tennis Tournament held at Crandon Park.

An Invitation to Bid (ITB) #1677-PR was approved for advertisement by the Board of County Commissioners. Three bids were received on November 19, 2003: Outdoor Aluminum, Inc., for \$851,194; Alto Seating Systems, Inc., for \$1,991,169; and, S.F.C.S., Inc., for \$2,077,000.

After an extensive and careful evaluation process by the Department of Procurement Management (DPM) and the Park & Recreation Department, the lowest bidder (Outdoor Aluminum, Inc.) was deemed non-responsive, as stated in the County Manager's Recommendation to Award memo of August 4, 2004 (Copy attached). Therefore, the County Manager recommended that the contract be awarded to the apparent lowest responsive bidder, Alto Seating Systems, Inc. Outdoor Aluminum filed a protest claiming that their proposal was unjustly determined non-responsive.

South Florida Construction Services Inc. (SFCS), submitted a written "intent to protest" on August 18th, 2004. SFCS contended that the County had misapplied the local preference provision and that SFCS should be awarded the contract. Staff evaluated this claim and found that the 5% local preference, in force at the time, had not been applied. If the local preference had been applied, SFCS and Alto would have been eligible to submit a best and final offer (BAFO) after the disqualification of Outdoor Aluminum, Inc. The use of the BAFO is consistent with the County's standard operating procedure for evaluating competitive bids where the local preference provision impacts bid rankings.

The County Manager issued a new memo on October 13, 2004, which rescinded the previous award recommendation. Furthermore, the County Manager's memo recommended the rejection of all bids received in response to the ITB, and directed staff to conduct parallel negotiations with Alto Seating Systems, Inc. and SFCS, Inc. in order to arrive at a best value recommendation by waiving our formal competitive procedures, yet allowing some measure of competition. The business decision to enter into parallel negotiations with both firms was made to ensure that competition between these two firms would result in the best product, at the best price for the county. The County Manager decided to negotiate with these two firms, and not with Outdoor Aluminum Inc., because they offered products that would meet the County's needs for a system that is safe, durable, and easy to assemble and disassemble over short time periods. Alto and SFCS agreed, without objection or protest, to participate in the parallel negotiations.

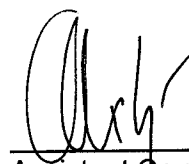
The August 18th, 2004, Outdoor Aluminum protest was returned by the Clerk's Office as it was deemed to be moot since the initial Manager's recommendation was rescinded. On October 25, 2004, Outdoor Aluminum, Inc. filed a second protest with the Clerk of the Board in response to the County Manager's recommendation of October 13, 2004. The protest hearing was held and the Hearing Examiner sustained the County Manager's recommendation to rescind the original recommendation, reject all bids, and conduct the parallel negotiations. The Hearing Examiner also recommended that Outdoor Aluminum Inc. be reimbursed \$45,000 for the costs incurred in the competitive process. The county does not agree with the later recommendation.

As directed, the County conducted parallel negotiations with Alto Seating Systems, Inc. and S.F.C.S., Inc. The resultant recommendation ensures a seating system which is the most advantageous and beneficial to the County's Crandon Park Tennis Center and represents a best value procurement.

The negotiations conducted by the Department of Procurement Management resulted in the following:

- A \$588,300.00 reduction in cost
- All seating is upgraded to chair-back from bench-style at same price
- Inclusion of the User Access Program (UAP) Fee

Attachment:


Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: June 7, 2005

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 8(O)(1)(C)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☒ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor

Agenda Item No. 8(O)(1)(C)

Veto _____

6-7-05

Override _____

RESOLUTION NO. _____

RESOLUTION WAIVING THE REQUIREMENTS OF SECTIONS 2-8.3 AND 2-8.4 OF THE CODE PERTAINING TO BID PROTESTS AND WAIVING FORMAL BID PROCEDURES FOR THE PURCHASE OF BLEACHERS AT THE CRANDON TENNIS CENTER; AND AWARDING THE CONTRACT THEREFOR TO S.F.C.S., INC.

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, the County Manager recommends that this Board waive the requirements of Sections 2-8.3 and 2-8.4 of the Code pertaining to bid protests; and

WHEREAS, the County Manager recommends that this Board waive formal bid procedures for the purchase of a bleacher-style seating system that can be assembled and disassembled for the Crandon Tennis Center and award the contract to S.F.C.S., Inc.,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board waives the requirements of Sections 2-8.3 and 2-8.4 of the Code pertaining to bid protests.

Section 2. This Board finds that it is in the best interests of Miami-Dade County to waive formal bid procedures for the purchase of Bleachers at the Crandon Tennis Center and awards the contract therefor to S.F.C.S., Inc. pursuant to Section 4.03(D) of the Home Rule Charter.

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The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

| | |
|-------------------------------|--------------------------|
| Joe A. Martinez, Chairman | |
| Dennis C. Moss, Vice-Chairman | |
| Bruno A. Barreiro | Dr. Barbara Carey-Shuler |
| Jose "Pepe" Diaz | Carlos A. Gimenez |
| Sally A. Heyman | Barbara J. Jordan |
| Dorrian D. Rolle | Natacha Seijas |
| Katy Sorenson | Rebeca Sosa |
| Sen. Javier D. Souto | |

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of June, 2005. This Resolution and contract, if not vetoed, shall become effective in accordance with Resolution No. R-377-04.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



R.A. Cuevas, Jr.



MEMORANDUM

TO: Honorable Chairperson Barbara Carey-Shuler, Ed. D. and Members, Board of County Commissioners

DATE: August 4, 2004

FROM: George M. Burgess
County Manager

SUBJECT: Recommendation for
Approval to Award Bid No. 1677-PR,
Temporary Seating at the Crandon
Tennis Center Stadium

It is recommended that the Board of County Commissioners approve the above-captioned award as follows:

BID NO: 1677-PR

BID TITLE: Temporary Seating at the Crandon Tennis Center Stadium

DESCRIPTION: To provide and install engineered, pre-manufactured, movable and temporary stadium seating, anchor and support system for upper deck area, comprised of "closed deck" at Crandon Tennis Center Stadium on Key Biscayne, Florida

APPROVAL TO ADVERTISE: April 8, 2003

TERM: Upon completion (one-time contract)

CONTRACT AMOUNT: \$1,738,013.00

USING/MANAGING AGENCY: Parks & Recreation Department

CONTRACT MEASURES: No Measure

LIVING WAGE: Not Applicable, not a covered service.

ESTIMATED CONTRACT
COMMENCEMENT DATE: October 1, 2004

METHOD OF AWARD: To Low Bidder by Group

VENDORS RECOMMENDED
FOR AWARD: Alto Seating Systems, LLC – Items Awarded: 1 through 3

8 7

VENDORS NOT RECOMMENDED
FOR AWARD:

- South Florida Construction Services, General Contractors
Reason not recommended: Higher price than the low responsive bid.
- Outdoor Aluminum, Inc./dba Seating Solutions
Reason not recommended: Non-Responsive (see below)

REASON FOR FINDING
OF NONRESPONSIVENESS

(The bid of Outdoor Aluminum, Inc./dba Seating Solutions):

The bid submitted by Outdoor Aluminum/Seating Solutions was presented as an "equal or better" product. Under the County's advertised "Invitation To Bid" (ITB) solicitation document there were specified criteria for the timing and content of the documentation to substantiate equal or better status in order for the submission to be considered a responsive bid. The reasons for finding the bid submitted by Outdoor Aluminum/Seating Solutions non-responsive and ineligible for award are outlined below:

Section I General Terms and Conditions:

Award of Bid Solicitation — Paragraph 1.5(A) "The Bid may be awarded to the responsible Bidder meeting all requirements as set forth in the solicitation", (emphasis added). The bidder failed to comply with this general condition requiring the timeliness of documentation submittals as stipulated in Section 3, paragraph 3.3. "It is the responsibility of the Bidder to submit at time of bid submission, (emphasis added) all necessary information to prove equal or better." This is important when considering an equal or better product as noted in Section I, paragraph 1.5-J of the General Terms and Conditions. "Award of this Bid may be predicated on compliance with and submittal of all required documents as stipulated in the Bid Solicitation." A specific submittal requirement regarding equal products is found in Section 2, paragraph 2.9, of the Special Conditions. "Where an equal is bid, the Bid Proposal must be accompanied with two (2) complete sets of factory information sheets (specifications, brochures, etc.). Failure to meet this requirement may result in your bid being rejected. The County shall be the sole judge of equality and its decision shall be final in its best interest." Appropriate backup information as required in Section 2, paragraph 2.9 was not included with the Bid Proposal. In lieu of submitting additional information, the bidder volunteered to do a product demonstration. The product demonstration did not mitigate the need for additional information regarding specifications and information sheets. The demonstration raised additional technical issues, (see further discussion below) which further substantiated that this was not a responsive bid in terms of meeting the requirements of the Bid Solicitation. The product demonstrated was not the final product that the bidder proposed to supply to the County. The bidder agreed to some concessions when noncompliance issues were pointed out on the demonstration product. Essentially, the County was being put in a position to make an evaluation that was strictly circumstantial, based on accepting a product similar to, but not the final product, without the benefit of reviewing additional documentation until after the bid award. The bidder's failure to responsively provide the required information and to demonstrate the "the unit shall be equal in quality, standards of performance, design, etc. to the item specified" is sufficient justification for rejecting this bid.

Technical Conditions:

The Outdoor Aluminum/Seating Solutions product met some of the technical criteria. In certain critical areas, however, the demonstration product was either deficient or sufficient information was not available for evaluation.

The product offered by Outdoor Aluminum/Seating Solutions is considered unsatisfactory in the following areas:

1. Supportive Understructure — Section 3, paragraph 3.2-A The understructure frames used in the demonstration, (January 26, 2004) were unacceptable because the fixed base could not be adjusted to fit site conditions. The bidder did not take this into proper consideration. (See Section 2, paragraph 2.8, Examination of Site. "Prior to submitting its proposal it is advisable that the bidder visit the site of the proposed work and become familiar with any conditions which may in any manner affect the work to be done or affect the equipment, materials and labor required.") There were two proposed solutions by the bidder:
 - a. Custom manufacture each understructure frame to fit its specific location on the deck. This would require that each custom frame be matched to a specific location on the deck within the understructure of the system. The logistics of keeping the correct piece at the right location during repeated assembly and disassembly procedures would be daunting. This solution is rejected.
 - b. Subsequent to solution (a), the bidder proposed to use shims as leveling devices under those understructure frames requiring them. This is a different version of the same solution as (a) and does not address the problem of needing to keep track of where each piece fits in the system. This solution is rejected for essentially the same reason as (a).
2. Connection Points — The system proposed by Outdoor Aluminum/Seating Solutions would use a threaded bolt into a sleeve connection system, whereby any sleeve is replaceable should it be damaged in any way. Similarly, any faulty or damaged bolt can also be replaced. There are problems with this recommended system.
 - a. This is a custom design that to our knowledge has not been tried beyond this re-usable application. The Department is concerned about using such a critical component not previously field-tested and used in other similar applications.
 - b. The number of pieces (bolts) notwithstanding, care must be exercised by the installer(s) so that the bolts are not over-driven into the sleeves thereby exerting undue stresses and possible fractures at the critical connections of the system. The sheer number of connections (thousands) may make any claim to be able to monitor this function in assembly or disassembly moot, without the anticipation of adding an extraordinary amount of time to the installation or removal process.
 - c. Damaged bolts or sleeves are not the only potential weak spots of this type connection system. A sleeve itself could cause damage to the aluminum piece into which it is inserted. The only plausible solution to a loose, but otherwise serviceable sleeve, would be to install a larger sleeve, which may require a different bolt size, adding to the number

of different pieces.

- d. The use of this type of connection may be appropriate for installations that are permanent and therefore not subject to repeated assembly and disassembly. However, in the application as specified in the Bid Solicitation it will substantially affect the durability of the equipment and the labor required. The system used as the standard in the bid solicitation is a self-locking connector that is a part of the understructure components designed for temporary systems.

In anticipation of this issue being a concern, Outdoor Aluminum/Seating Solutions offered to use a conical connection similar to the Alto system. While this might prove to be satisfactory, it is apparently not a standard connection for this product. Given the circumstances of the application for which this product is being considered, the Department does not believe that a fit is possible.

3. Overhang — Section 3, paragraph 3.2-B — If necessary, to provide for the number of seats required, a six-foot overhang is permitted. The understructure of the proposed system (based on the documentation submitted) does not appear to be used in unsupported cantilevered applications, where the understructure is not permanently installed. At the time of the demonstration, the cantilever overhang was discussed but how this was to be incorporated and supported by the system was not included in the demonstration. The concerns in this regard cannot be overstated. Because the three top rows of seats will be cantilevered off the stadium top deck, a structurally sound and safe system is paramount. The proposed system with a cantilever is based on a permanent understructure installation. The strengths and characteristics of the supporting elements in a temporary installation, which is what the proposal requires, are unknown.
4. General — Section 3, paragraph 3.3 — The ability of the proposed product to perform as "equal or better" than the suggested standard has not been satisfactorily substantiated or demonstrated. The design changes, modifications and durability of the demonstration product (based on the literature submitted with the bid proposal), is not associated with the temporary system application requested in the proposal. The bidder failed to prove that the product meets the "equal or better" technical requirements of the Bid Solicitation.

The reasons outlined above, each one specifically and all of them combined as a whole, render the bid submitted by Outdoor Aluminum/Seating Solutions non-responsive to the requirements of the project as established in the Invitation To Bid and ineligible for award. The low responsive, responsible bidder, therefore, is Alto Seating Solutions, LLC, and this award recommendation is made accordingly.